

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re: Fisker Automotive Holdings Inc. et al.

Hybrid Tech Holdings LLC,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 14-99
	:	Bankruptcy Case No. 12-13087 (KG)
Official Committee of Unsecured Creditors,	:	AP No. 14-2
	:	
Appellees.	:	

RECOMMENDATION

At Wilmington this 18th day of February , 2014.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, appellant has requested emergency relief from this court by filing an emergency motion including entry of an order for expediting appeal of credit bid decision, shortening the briefing schedule and by passing appellate mediation.¹ Appellant has also filed an emergency motion for certification for direct appeal from the Bankruptcy Court's Order Limiting Credit Bid to the Third Circuit.² Such requests and its position that mediation, in light of the time table, would be neither effective nor useful, demonstrate that the issues involved are not amenable to mediation and

¹ D.I. 20.

² D.I. 9.

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mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. Through this Recommendation, the parties are advised of their right to file objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
UNITED STATES MAGISTRATE JUDGE